

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ROY BROCK,

Petitioner,

:

03 Civ. 2594 (WHP)(AJP)

-against-

:

REPORT & RECOMMENDATION

WENDE CORRECTIONAL FACILITY,

:

:

Respondent.

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ANDREW J. PECK, United States Magistrate Judge:

Presently before the Court is petitioner Brock's "Notice of Petition" seeking reconsideration of the denial of his habeas petition. (Dkt. No. 21.) His original habeas petition was denied by then - District Judge Chin on April 26, 2004. (Dkt. No. 13.) Judge Chin twice denied Brock's motion for reconsideration. (6/2/04 minute entry and Dkt. No. 19.) The Second Circuit dismissed Brock's appeal on September 30, 2004. (Dkt. No.20.)

The Circuit having ruled almost eleven years ago, this case has long been closed, and a request for "reconsideration" after an appeal is untimely, to put it mildly. At best, Brock's current application could be considered a second or successive habeas petition -- in which case it should be dismissed because Brock has not sought, much less received, authorization from the Second Circuit to file such a petition, as required by 28 U.S.C. § 2244(b)(3)(A).

Accordingly, Brock's "Petition for Reconsideration" (Dkt. No. 21) should be DENIED.


FILING OF OBJECTIONS TO THIS REPORT AND RECOMMENDATION

Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil

Procedure, the parties shall have fourteen (14) days from service of this Report to file written objections. See also Fed. R. Civ. P. 6. Such objections (and any responses to objections) shall be filed with the Clerk of the Court, with courtesy copies delivered to the chambers of the Honorable William H. Pauley III, 500 Pearl Street, Room 1920, and to my chambers, 500 Pearl Street, Room 1370. Any requests for an extension of time for filing objections must be directed to Judge Pauley (with a courtesy copy to my chambers). Failure to file objections will result in a waiver of those objections for purposes of appeal. Thomas v. Arn, 474 U.S. 140, 106 S. Ct. 466 (1985); Ingram v. Herrick, 475 F. App'x 793, 793 (2d Cir. 2012); IUE AFL-CIO Pension Fund v. Herrmann, 9 F.3d 1049, 1054 (2d Cir. 1993), cert. denied, 513 U.S. 822, 115 S. Ct. 86 (1994); Frank v. Johnson, 968 F.2d 298, 300 (2d Cir.), cert. denied, 506 U.S. 1038, 113 S. Ct. 825 (1992); Small v. Sec'y of Health & Human Servs., 892 F.2d 15, 16 (2d Cir. 1989); Wesolek v. Canadair Ltd., 838 F.2d 55, 57-59 (2d Cir. 1988); McCarthy v. Manson, 714 F.2d 234, 237-38 (2d Cir. 1983).

SO ORDERED.

Dated: New York, New York
August 13, 2015



Andrew J. Peck
United States Magistrate Judge

Copies to: Roy Brock (mail)
Lisa E. Fleischman (ECF)
Judge Pauley